

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:07cr108

UNITED STATES OF AMERICA

vs.

EDWARD PORTER (4)

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ORDER

THIS MATTER is before the Court upon motion of the defendant for review of detention. (Doc. No. 43).

The defendant pled guilty to Count Five of the indictment on September 7, 2007, charging possession of an unregistered shotgun. (Doc. No. 41: Plea Agreement; Doc. No. 45: Acceptance and Entry of Guilty Plea). Thus, the defendant has been found guilty and is awaiting imposition of sentence for an offense described in subparagraph (A) of subsection (f)(1) of 18 U.S.C. § 3142.¹ Pursuant to § 3143(a)(2), the defendant shall be detained unless the Court finds a substantial likelihood that a motion for acquittal or new trial will be granted; or an attorney for the government has recommended that no sentence of imprisonment be imposed; and the Court finds by clear and convincing evidence the person is not likely to flee or pose a danger to any other person or the community. 18 U.S.C. § 3143(a)(2)(A)(i), (ii) and (B).

Upon review of the record, even in a light most favorable to the defendant, the Court finds the defendant has not alleged or established that there is a substantial likelihood that motion for

¹See e.g. United States v. Ankney, — F.3d —, 2007 WL 2482059, slip op. at *9 (9th Cir. 2007) (possession of unregistered sawed-off shotgun is a “crime of violence” because its mere possession involves the substantial risk of violence); United States v. Rivas-Palacios, 244 F.3d 396, 397-398 (5th Cir. 2001) (same).

acquittal or new trial will be granted or that an attorney for the government has recommended that no sentence of imprisonment be imposed. Thus, the Court is obligated by the statute to detain the defendant because the prerequisites for release have not been met. Id.

IT IS, THEREFORE, ORDERED that the defendant's motion is **DENIED**.

The Clerk is directed to certify copies of this order to the defendant, counsel for the defendant, to the United States Attorney, the United States Marshals Service, and the U.S. Probation Office.

Signed: September 10, 2007

A handwritten signature in cursive script, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.
Chief United States District Judge

